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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,786	09/05/2003	Gary A. Durivage	1-37018	6596

43935 7590 07/15/2005

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,786

Applicant(s)

DURIVAGE, GARY A.

Examiner

Frederick C. Nicolas

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/25/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gentili 4,609,106.

Gentili discloses a fluid container (1) which comprises a first side wall (13) having spaced apart indentations (16) (col. 3, ll. 4-68 onto col. 4, ll. 1-64), a circumference defining the shape of the side wall as seen in Figure 1, a second side wall (12) having spaced apart indentations (16) (col. 3, ll. 4-68 onto col. 4, ll. 1-64), a circumference defining the shape of the side wall as seen in Figure 2, a circumferential wall extending around and joining the circumferences of the first and second side walls forming a hollow interior of the container and causing respective ones of the indentations to contact one another to maintain spaced relation across the first and second walls and militate against collapse of the side walls as seen in Figure 2.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-10,13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentili 4,609,106 in view of Howlett 3,250,434.

Gentili has taught all the features of the claimed invention except that the spout is recessed within the circumferential wall. Howlett teaches the use of a fluid container (5) with a fluid fill/pour spout (16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Howlett's fill/pour spout within Gentili's container neck as taught by Howlett in (col. 2, ll. 40-44), in order to provide a fluid container with a reversible spout for the filling and dispensing the product from the container.

5. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentili 4,609,106 in view of Howlett 3,250,434 as applied to claim 10 above, and further in view of Nahill et al. 6,112,925.

Gentili-Howlett in combination has taught all the features of the claimed invention except that the plastic is a polyethylene. Nahill et al. teach the use of a blow-molding plastic container (10), where the plastic is polyethylene (col. 3, ll. 52-65).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the plastic container of Gentili and Howlett made of polyethylene as taught by Nahill et al. in (col. 3, ll. 52-65), in order to provide a container with superior recyclability and ease of manufacture.

6. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gentili 4,609,106 in view of Howlett 3,250,434 as applied to claim 7 above, and further in view of Schoonover 4,923,098.

Art Unit: 3754

Gentili-Howlett in combination has taught all the features of the claimed invention except that the fluid container includes spaced apart handle holes. Schoonover et al. teach the use of a fluid container (10), where the fluid container includes spaced apart handle holes (16,18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teaching of Schoonover et al. onto the fluid container of Gentili and Howlett by providing an additional handle hole (18) as taught by Schoonover et al. in Figure 1, in order to facilitate grasping the container by the two handles.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Durivage D506,137, Baron 6,779,678, Baron et al. Des. 355,854, Redding 3,552,599, Harting et al. 4,252,073, Johnson et al. and Dornau et al. 4,228,758 disclose other type fluid container.

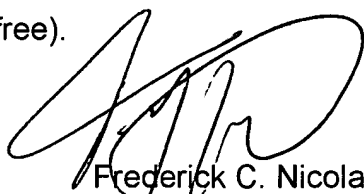
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
July 13, 2005

 7/13/05
Frederick C. Nicolas
Primary Examiner
Art Unit 3754